

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JANE DOE,

Plaintiff,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Defendant.

Case No. [23-cv-00598-WHO](#)

**ORDER AFFIRMING NON-
DISPOSITIVE DISCOVERY ORDER**

Re: Dkt. No. 77

The Regents' belatedly-filed motion for relief from Magistrate Judge Westmore's August 30, 2024 Discovery Order is DENIED. Judge Westmore did not clearly err in ordering the Regents to conduct a linear or traditional review of all 80,000 documents that hit on the parties' heavily negotiated ESI protocol.

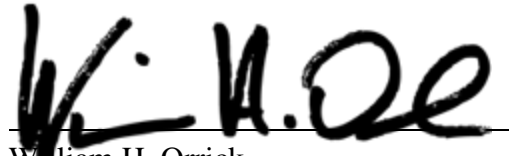
The Regents' attempt to draw distinctions between the agreed-to ESI protocol and its application of "exclusion terms" that were not agreed-to in the ESI protocol fails. To the extent the Regents applied "techniques" to exclude documents otherwise falling within the 80,000 document set from linear/traditional review, Judge Westmore appropriately found that its conduct violated the ESI protocol. If, as the Regents appear to represent in their motion for relief, they instead applied techniques to determine only the order in which documents within the 80,000 set would be reviewed, that is fine. That latter explanation, however, was not presented to Judge Westmore.

In any event, Judge Westmore did not err in ordering the Regents to conduct a linear or traditional review of the full 80,000 set. The Regents may conduct that review in whatever order

they choose, as long as that review is completed and responsive documents produced within ten (10) days of the date of this Order.¹

IT IS SO ORDERED.

Dated: September 30, 2024

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

William H. Orrick
United States District Judge

United States District Court
Northern District of California

¹ As the parties will recall, the Regents have had since August 30, 2024 to conduct that review. This extends the time for that review and production until October 10, 2024.